



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
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State Controller

BARBARA ALBY
Acting Member
Second District, Sacramento

KRISTINE CAZADD
Interim Executive Director

STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
October 19-21, 2010

PRELIMINARY RECORD OF BOARD ACTIONS

Tuesday, October 19, 2010

The following is a preliminary record of Board actions taken at the October 19-21, 2010 Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

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A. Homeowner and Renter Property Tax Assistance Hearings
There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Hearings

B1a. Donald R. Diamond and Joan B. Diamond, 441030

B1b. Frank A. Aries and Mary Lou Aries, 464475

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Ms. Alby	No
	Ms. Steel	No
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B2. Charles E. Grays II, 464314

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee	Yes
The Board ordered that the appeal be submitted for decision, granting the Franchise Tax Board 30 days to respond to new documents and testimony, the appellant 30 days to respond and submit supporting documents, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B3. Edmund (Chad) Siva (Deceased), 384247, 390860, 401330, 401331, 481024

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal from the proposed assessment of tax was denied on the basis of abstention	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	No
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board abated 2004 – 2005 penalties.	Ms. Yee	No
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Abstain

B4. Harold T Riggs, Jr., 449373, 474423, 504746

B5. Wayne L. Hause and Kelly R. Hause, 467603

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied on the basis of abstention.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	No
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B6. John J. Skillings, 515852

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee	Yes
The Board ordered that the appeal be submitted for decision, granting the taxpayer 30 days to file supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review parties' submissions and provide its recommendation to the Board.	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B7. Steven T. Waltner and Sarah V. Waltner, 468742

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
The Board imposed a \$750 frivolous appeal penalty.	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C. Sales and Use Tax Appeals Hearings

These items are scheduled for Wednesday and Thursday, October 20 and 21, 2010.

D. Special Taxes Appeals Hearing

This item is scheduled for Thursday, October 21, 2010.

There are no items for the following matters:

- E. Property Tax Appeals Hearings
- F. Public Hearings

G. Tax Program Nonappearance Matters – Consent

G1. Legal Appeals Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
No final determination on sub-item 7.	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Hearing Notices Sent – No Response
 1. BNP Leasing Corporation, 379971 (OH)
 2. Penster Corporation, 234223 (AS)
 3. Luce of Beverly Hills, LLC, 436918, 437810 (AS)
 4. Michelle L. Rohn and Jeffrey Dean Rohn, 427506 (UT)
 5. Angela Louise Devlin and William Grover Devlin, 406217 (EA)
 6. Veronica Ramirez De Cantu, 460327, 460966 (EH)
 7. ~~Bassem Youssef Ghobrial, 462585 (AA)~~
 8. Gerard J. Neglio and Marian Marini Mendoza, 384556 (UT)
 9. Jack Rust Burrell, 484542 (GH)
 10. Donica, Inc., 359940 (UT)
 11. PB Municipal Funding, Inc., 388643 (OH)
 12. David Herbert Lutton, 470337 (AC)
 13. Norman James Johnson, 474439 (AP)
 14. Snyder Family Trust DTD 10/1/2002, 417085 (UT)
 15. Michael David Stanley, 466866 (FH)
 16. F.R.A., Inc., 447293, 475689, 484515, 488955 (AA)
 17. T.M.B. Enterprises, Inc., 450883 (AC)
 18. Antonio Acosta Trujillo, 450245 (MT)
- Hearing Notices Sent – Appearance Waived
 19. Corey Markus, 393827 (AS)
 20. Oscar Iturralde, 426241 (AC)
 21. Hamid R. Davari, 433698 (CH)
- Petitions for Release of Seized Property
 22. Gray Yeon and Soon Yi Yi, 535714 (ET)
 23. Joe Anh Lee, 534393 (ET)
 24. Mansour Ghiyam, 535625 (ET)
 25. Khaled W. Zakher and Medhat Zakher, 533043 (ET)
 26. Harpreet Singh Dhillon, 533588 (ET)
 27. Ashiq Ali Javid, 536546 (ET)
 28. DH Enterprise, Inc., 533600 (ET)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
No final determination on sub-item 20.	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ Decisions

1. Elenita Y. Borja, 506930
2. Josephine R. Caguimbal, 496533
3. Margaret Cutri, 445327
4. Charles Dalrymple, 462524
5. Donahue Marital Trust, 477472
6. Mary Ewell (Ryan), 469486
7. Brooke E. Hammerling, 493029
8. Brock Kruzic, 484760
- 9a. Eli Levite and Hinga Levite, 449394
- 9b. Eyal Oz and Ziva Oz, 492466
- 9c. Siamak Rahimi and Parisma Rahimi, 449345
10. Dexter Luther, 486933
11. Brian Nelson, 424177
12. Adegbuyi O. Okupe, 506421
13. Daniel E. Rowe, 491330
14. Timothy J. Ryan, 440948
15. Jonathan B. Ryder, 486581
16. Lyle Sladek, 506462
17. Kim D. Smith, 445937
18. Hao-Sheng Yu and Siew-Hoon Hoe, 522039

➤ Petitions for Rehearing

19. Antonio M. Gallardo and Maria Gallardo, 468082
20. ~~Rheem Manufacturing Company, 485872~~
21. Steven A. McMahon, 479981

G3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Redeterminations
 1. Steelscape, Inc., 505919 (OH)
 2. D'Anna Yacht Center, Inc., 392340 (CH)
 3. Sunrise Medical HHG, Inc., 489175 (OH)
 4. Robert M. Heller O.D., Inc., 521906 (FH)
 5. Joe M. Khayat, 485671 (JH)
- Relief of Penalty/Interest
 6. Taco Bell, 536365 (OH)
- Denials of Claims for Refund
 7. Sonic-Stevens Creek B, Inc., 437744 (GH)
 8. Louis Vuitton North America, Inc., 505712 (OH)
 9. Cellco Partnership, 316918 (OH)
 10. Cellco Partnership, 384267 (OH)
 11. Capital One Auto Finance, Inc., 522400 (OH)
 12. CAL Fuel Purchasing Group, LLC, 514581 (AS)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Credits and Cancellations
 1. Liquid Partyworks, Inc., 390762 (AC)
 2. Long Beach, LLC, 536887 (OH)
- Refunds
 3. Mattel Sales Corporation, 534113 (AS)
 4. Gucci America, Inc., 536265 (OH)
 5. Sonic-Stevens Creek B, Inc., 437744 (GH)
 6. Epsilon Trading, Inc., 505335 (OH)
 7. NWA Fuel Services Corporation, 504973 (OH)
 8. Louis Vuitton North America, Inc., 505712 (OH)
 9. Mercedes-Benz USA, LLC, 536393 (KH)
 10. Farmers Insurance Group, 381012 (AS)
 11. Conexant Systems, Inc., 424508 (EA)
 12. Cymer, Inc., 518049 (FH)
 13. Varian, Inc., 518985 (GH)
 14. Pacific Service Credit Union, 520577 (CH)
 15. Capital One Auto Finance, Inc., 522400 (OH)
 16. Volvo Cars of North America, LLC, 307154 (OH)
 17. WinCo Foods, LLC, 487044 (OH)
 18. Eagle Community Credit Union, 522669 (EA)

19. CAL Fuel Purchasing Group, LLC, 514581 (AS)
20. Alvarado Hospital, LLC, 468389 (FH)
21. Pacific Power Products Co., LLC, 522402 (OH)

There are no items for the following matters:

- G6. Special Taxes Matters
- G7. Special Taxes Matters – Credits, Cancellations and Refunds
- G8. Property Taxes Matters
- G9. Cigarette License Fee Matters
- G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

- H1. Legal Appeals Matters
These items are scheduled for Thursday, October 21, 2010.

There are no items for the following matters:

- H2. Franchise and Income Tax Matter
- H3. Homeowner and Renter Property Tax Assistance Matters
- H4. Sales and Use Taxes Matters
- H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds
- H6. Special Taxes Matters
- H7. Special Taxes Matters – Credits, Cancellations, and Refunds
- H8. Property Tax Matters
- H9. Cigarette License Fee Matters
- H10. Legal Appeals Property Tax Matters

- I. Tax Program Nonappearance Matters
There are no items for this matter.

Chief Counsel Matters

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session

There are no items for the following matters:

- N. Consent Agenda
- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

Q. Closed Session

These items are scheduled for Wednesday, October 20, 2010.

B. Corporate Franchise and Personal Income Tax Hearings**B8. Donald R. Lee and Debra J. Lee, 513965**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B9. Valerie Nelson, 489125

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board ordered that the appeal be submitted for decision, granting the taxpayer 30 days to file supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review parties' submissions and provide its recommendation to the Board.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B10. Cecilia Reza, 506933

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B11. Haik Arakelian and Alice Arakelian, 442173

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Ms. Alby	No
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~B12. Franklin Casco, Jr., 512009~~

B13. Osage Garden Apartments, LLC, 462197

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B14. Elizabeth Magness, 508940

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Ms. Alby	Yes
The Board imposed a \$5,000 frivolous appeal penalty.	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B15. Eric Mattson, 510013

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Ms. Alby	Yes
The Board imposed a \$750 frivolous appeal penalty.	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes



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STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
October 19-21, 2010

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Wednesday, October 20, 2010

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C. Sales and Use Tax Appeals Hearings

C1. The Marble Shop, LLC, 305001 (AC)

Table with 3 columns: DECISION, MEMBER, BOARD VOTE. Contains details for Taxpayer's petition partially granted/denied and Board directed staff to inform the taxpayer of the OIC program.

C2. Lonnie Davis Naefke, 458687 (AS)

Table with 3 columns: DECISION, MEMBER, BOARD VOTE. Contains details for Taxpayer's protest denied.

C3. Gwang Hyun Song and Keum J. Song, 433708 (AP)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination.	Ms. Yee	Yes
The Board ordered that the appeal be submitted for decision, granting the taxpayer 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review parties' submissions and provide its recommendation to the Board.	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C4. Gaston A. Alvarez, 434595 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C5. Martin L. Hudler, 434939 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C6. Erick Francisco Catalan, 420368 (GH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C7. United States Tile Co., 402951 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	No
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C8. ~~Ali Shahryarnejad, 418258 (AC)~~C9. ~~Boris Khodzhoian, 405900 (AP)~~

C10. Janet Chavez, 469083 (AC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C11. Antique Portraiture, Inc., 351260, 374301 (AA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board directed staff to conduct a reaudit.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C12. Finbars Italian Kitchen SB, Inc., 435792, 519738 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition and claim denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	No
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~C13. Fred's Liquor, Inc., 402953, 495047 (EA)~~

Q. Closed Session

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C. Sales and Use Tax Appeals Hearings

C14. Susan Hilary Tregub, 425147 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. Deferred to a later date.	Ms. Yee Ms. Alby Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	

C15. Davood Behdadnia, 421809 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Ms. Yee Ms. Alby Ms. Steel Mr. Horton Mr. Chiang/ Ms. Mandel	Yes Yes Yes Yes Yes

C16. Club Habanos, Inc., 426183 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Ms. Alby	No
	Ms. Steel	No
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C17. Aftershock Power Boats, Inc., 334423 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied. The Board directed staff to inform the taxpayer of the OIC program.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C18. Iradj Nazarian, 400357 (FH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. Deferred to a later date	Ms. Yee	
	Ms. Alby	
	Ms. Steel	
	Mr. Horton	
	Mr. Chiang/ Ms. Mandel	

C19. Los Angeles Country Club, 361952, 416903 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board directed staff to conduct a reaudit.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C20. Kenneth Kreisel, 470151 (AC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's protest denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C21. Store2door, Inc., 352179 (AC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board directed staff to conduct a reaudit.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~G22. William Brett Corbin, 434956 (EA)~~**D. Special Taxes Appeals Hearing**

D1. Kamal F. Batech and Wafaa Elias Batech, 533038 (ET)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H. Tax Program Nonappearance Matters – Adjudicatory**H1. Legal Appeals Matters**

➤ Hearing Notice Sent – No Response

1. David Bergstein, 425117 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	Yes
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ Hearing Notice Sent – Appearance Waived

2. Pacific Window Corporation, 391906 (EH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Ms. Yee	Yes
	Ms. Alby	Yes
	Ms. Steel	No
	Mr. Horton	Yes
	Mr. Chiang/ Ms. Mandel	Yes